

UNITED STATES OF AMERICA )  
 )  
 v. )  
 )  
 ANTONIO LANARDO MITCHELL, )  
 )  
 Defendant. )

Case 5:09-cr-00313-D Document 77 Filed 11/11/16 Page 1 of 3


On November 23, 2014, Mitchell moved for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Amendment 782 to the Sentencing Guidelines and requested a 30-month sentence on count one. See [D.E. 73]. Mitchell's new advisory guideline range on count one is 30 to 37 months' imprisonment, based on a total offense level of 17 and a criminal history category of III. See Resentencing Report. On November 28, 2015, Mitchell filed a memorandum in support of his motion [D.E.75].

The court has discretion to reduce Mitchell's sentence. See, e.g., Dillon v. United States, 560 U.S. 817, 827 (2010); United States v. Cole, 618 F. App'x 178, 178–79 (4th Cir. 2015) (per curiam) (unpublished); United States v. Thomas, 546 F. App'x 225, 225–26 (4th Cir. 2013) (per curiam) (unpublished); United States v. Perez, 536 F. App'x 321, 321 (4th Cir. 2013) (per curiam) (unpublished); United States v. Smalls, 720 F.3d 193, 195–97 (4th Cir. 2013); United States v. Mann, 709 F.3d 301, 306–07 (4th Cir. 2013); United States v. Stewart, 595 F.3d 197, 200 (4th Cir. 2010). In deciding whether to reduce Mitchell's sentence, the court finds that Mitchell engaged in serious criminal behavior. See PSR ¶¶ 9–13. The criminal behavior included conspiring to distribute approximately 60 kilograms of marijuana and possessing firearms in furtherance of his drug trafficking. See id.; see also Sent. Tr. 6–20. Mitchell is also a recidivist drug dealer. See PSR ¶ 18. Nonetheless, Mitchell has taken some positive steps while incarcerated. See [D.E. 75] 5–8.

Having reviewed the entire record and all relevant policy statements, the court finds that Mitchell received the sentence that was “sufficient, but not greater than necessary” under 18 U.S.C. § 3553(a) and that further reducing Mitchell's sentence would threaten public safety in light of his serious criminal conduct and serious criminal history. Cf. U.S.S.G. § 1B1.10, cmt. n.1(B)(ii). Thus, the court denies Mitchell's motion for reduction of sentence. See, e.g., Cole, 618 F. App'x at 178–79; Thomas, 546 F. App'x at 225–26; Perez, 536 F. App'x at 321.

In sum, the court DENIES Mitchell's motion for reduction of sentence [D.E. 73].

SO ORDERED. This 11 day of November 2016.

  
\_\_\_\_\_  
JAMES C. DEVER III  
Chief United States District Judge